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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a
Successor to Existing Net Energy Metering
Tariffs Pursuant to Public Utilities Code
Section 2827.1, and to Address Other Issues
Related to Net Energy Metering.

Rulemaking 14-07-002

**FOURTH AMENDED SCOPING MEMO AND
RULING OF ASSIGNED COMMISSIONER**

Summary

This Amended Scoping Memo and Ruling (Fourth Amended Scoping Memo) identifies the remaining issues for consideration in this proceeding, including issues carried over from the Third Amended Scoping Memo issued on August 31, 2017.¹ This ruling also adopts a procedural schedule for the remainder of this proceeding; designates the presiding officers; affirms the categorization (including designating a portion of the proceeding as quasi-legislative) and need for hearing; and sets the time for the conclusion of this proceeding consistent with Rule 7.3 of the Commission's Rules of Practice and Procedure (Rule or Rules).²

¹ Third Amended Scoping Memo and Ruling may be found at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M194/K614/194614903.PDF>.

² Unless otherwise noted, all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

1. Procedural Background

This proceeding addresses the legislative direction given in Public Utilities (Pub. Util.) Code § 2827.1³ to develop a successor to the net energy metering (NEM) tariff authorized in Section 2827. The Commission adopted the Order Instituting Rulemaking (OIR) for this proceeding on July 10, 2014, and held a prehearing conference on October 30, 2014. On January 23, 2015, the Commission issued the initial Scoping Memo and Ruling, and on December 11, 2015, issued an Amended Scoping Memo. On January 28, 2016, the Commission adopted a successor to the NEM tariff (Decision (D.) 16-01-044), and on March 4, 2016, issued a Second Amended Scoping Memo identifying the issues for consideration in the second phase of this proceeding. On August 31, 2017, the Commission issued a Third Amended Scoping Memo identifying remaining issues to be considered in this proceeding. Since the issuance of the Third Amended Scoping Memo, the Commission has addressed a number of issues, including:

- Establishing an implementation framework for Assembly Bill (AB) 693, 2015-2016 Reg. Sess. (Ca. 2015) and creating the Solar on Multifamily Affordable Housing (SOMAH) Program;⁴
- Facilitating adoption of paired energy storage by customers taking service on a virtual NEM tariff;⁵
- Modifying the bill credit estimation methodology for net energy metering-eligible facilities paired with small storage devices;⁶ and
- Issuing proposals for alternatives to promote distributed generation (DG) in disadvantaged communities.⁷

Today's amended scoping memo updates the scope and schedule for the remainder of this proceeding.

³ Unless otherwise noted, all subsequent citations to statute are to the Public Utilities Code.

⁴ D.17-12-022, issued December 18, 2017.

⁵ D.17-12-005, issued December 21, 2017.

⁶ D.18-02-008, issued February 15, 2018.

⁷ Proposed Decision and Alternative Proposed Decision, issued February 20, 2018.

2. Scope of Issues

The list of issues within the scope of this proceeding has been drawn from the original OIR for Rulemaking (R.) 14-07-002, as well as subsequent developments such as Commission direction provided in D.16-01-044, which adopted the NEM successor tariff, and legislation enacted since the OIR was issued. The issues listed in the Third Amended Scoping Memo, as follows, remain within the scope of this proceeding:

- Consideration and adoption of alternatives to encourage growth of DG by residential customers in Disadvantaged Communities (DACs);
- Oversight and administration of the successor tariff adopted in D.16-01-044;
- Oversight and administration of the SOMAH Program;
- Consumer protection under the successor tariff and any alternatives for DACs that may be adopted;
- Measurement and evaluation, marketing and outreach, and related program elements, including budgets, for customer-sited renewable DG;
- Any safety issues that may be identified;
- As needed and appropriate in this proceeding, development of metrics for reviewing whether customer-sited renewable DG is continuing to grow sustainably;
- As needed and appropriate in this proceeding, support for the Commission's planned review of the successor tariff in 2019;
- Implementation of AB 1637, 2015-2016 Reg. Sess. (Ca. 2016), which requires the Commission to implement an emissions performance standard for NEM fuel cell customers, once a standard is adopted by the State Air Resources Board; and
- Resolution of the Petition for Modification filed in this proceeding on May 19, 2017, requesting the exemption of Multifamily Affordable Solar Housing (MASH) customers on Virtual Net Energy Metering (VNEM) tariffs from the otherwise applicable requirement that NEM customers take service on a Time of Use (TOU) rate.

Since the issuance of the Third Amended Scoping Memo, several issues have been added to the scope of this proceeding. These issues are:

- Relevant to our intention to address consumer protection issues, AB 1070, 2016-2017 Reg. Sess. (Ca. 2017) requires the Commission to develop standardized inputs and assumptions to be used in the calculation and presentation of electric utility bill savings to a consumer that can be expected by using a solar energy system by vendors, installers, or financing entities, and the commission and each electrical corporation shall post these standardized inputs and assumptions on their Internet Web sites.
- Resolution of the Petition for Modification filed in this proceeding on September 1, 2017, requesting modifications to allow direct-current (DC)-coupled systems for large (i.e., greater than 10 kilowatts (kW)) NEM-eligible facilities paired with energy storage; and
- Resolution of the Petition for Modification filed in this proceeding on October 23, 2017, requesting the Commission modify its definition of “small” NEM paired with energy storage from less than or equal to 10 kW, to less than or equal to 30 kW.

In addition, as provided in R.14-07-002, petitions for modification of decisions affecting NEM tariffs, including those related to decisions in other proceedings such as R.12-11-005, should be raised in the context of this proceeding.⁸ The scope of this proceeding will also include the implementation of any additional NEM-related legislation enacted in the current legislative session.

The highest priority issues to be addressed before the closure of this proceeding include consumer protection and development of options for increasing use of renewable DG in disadvantaged communities. We expect to close this proceeding with the adoption of a new OIR on revisiting NEM tariffs and related issues on or before January 1, 2019. The primary focus of that proceeding will be on the evaluation of existing NEM tariffs and programs, and the development and adoption of successor tariffs. In addition, any

⁸ R.14-07-002 at 1.

issues not resolved before the adoption of a successor rulemaking are expected to carry over into the new proceeding.

3. Coordination with Other Proceedings

On November 10, 2016, the Commission endorsed a Distributed Energy Resources (DER) Action Plan.⁹ This action plan contemplates coordination among several Commission proceedings affecting policy on distributed energy resources, including R.14-07-002. Although no formal coordination of scheduling or issues with these other proceedings is required, we repeat our previous guidance that parties note in their submissions in this proceeding any relevant information about related issues in other Commission proceedings.

Specifically, Commission proceedings that address issues relevant to this proceeding include R.12-11-005, the ongoing proceeding on customer-owned DG in general; R.12-06-013 (residential rate redesign); R.14-08-013 (distribution resources plans); R.14-10-003 (integration of distributed energy resources); and R.16-02-007 (integrated resource plans). In addition, we anticipate coordination between the activities in this proceeding related to DACs and ongoing work in R.15-03-010, *Order Instituting Rulemaking to Identify Disadvantaged Communities in the San Joaquin Valley and Analyze Economically Feasible Options to Increase Access to Affordable Energy in those Disadvantaged Communities*.

4. Schedule

In accordance with Section 1701.5(b), this ruling sets a deadline of January 1, 2019, for the completion of this proceeding. It is the Commission's intention to close this proceeding and initiate a successor proceeding not later than that date. This deadline may

⁹ In endorsing the DER Action Plan, the Commission intends to guide development and implementation of policy related to distributed energy resources; it is not the Commission's intention to determine outcomes of individual proceedings. The DER Action Plan may be found at: http://www.cpuc.ca.gov/uploadedfiles/cpuc_public_website/content/about_us/organization/commissioners/michael_j_picker/2016-09-26%20der%20action%20plan%20final3.pdf.

be extended by an amended scoping memo or by order of the Commission.

(Section 1701.5.) Issues within the scope of this proceeding that remain unresolved at the closure of this docket are expected to be transferred into the successor proceeding.

The adopted schedule for the remainder of the proceeding is:

	EVENT	DATE
1.	Proposed decision adopting distributed generation alternatives in Disadvantaged Communities	Second quarter of 2018
2.	Resolution of outstanding petitions for modification, including <ul style="list-style-type: none"> • Request for exemption of MASH customers on VNEM tariffs from the otherwise applicable requirement that NEM customers take service on a TOU rate; • Request for modification of D.14-05-033 to allow DC-coupled systems for large NEM-eligible facilities paired with energy storage; and • Request for modification of D.14-05-033 to modify the definition of “small” NEM paired with energy storage from less than or equal to 10 kW, to less than or equal to 30 kW. 	Second and third quarters of 2018
3.	Proposed decision addressing consumer protection issues	Third quarter of 2018
4.	Successor OIR Adopted and remaining issues transferred	On or before January 1, 2019

The assigned Commissioner or assigned Administrative Law Judges (ALJs) may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding.

If any workshops are scheduled in this proceeding, notice of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

5. Final Oral Argument (FOA)

A party in a Ratesetting proceeding in which an evidentiary hearing was held has the right to make a FOA before the Commission, if the FOA is requested within the time and manner specified in the Scoping Memo or later ruling (Rule 13.13). If a hearing has been held, parties should use the following procedure for requesting FOA, unless a later ruling provides different instructions. If a hearing has not been held, these procedures do not apply.

Any party seeking to present FOA may file and serve a motion at any time that is reasonable, but no later than the last date that reply briefs are due. The motion must state the request, the subject(s) to be addressed, the amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion must contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable, and reasonable FOA. If more than one party plans to move for FOA, parties must use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed within five days of the date of the motion.

If a final determination is made that no hearing is required, Rule 13.13 will cease to apply, along with a party's right to make an FOA.

6. Categorization and Need for Hearing

The categorization of this proceeding as Ratesetting was confirmed in the original Scoping Memo in accordance with Rule 7.1, and was not appealed. (*See* Rule 7.6.) The determination made in the Scoping Memo that hearings are needed is maintained in this Fourth Amended Scoping Memo.

We make one exception to our previous determinations on categorization: matters regarding consumer protection (Item 3 of the adopted schedule) shall be categorized as quasi-legislative.

7. Ex Parte Communications

In a Ratesetting proceeding, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the ALJs are only permitted as described at Pub. Util. Code §§ 1701.1 and 1701.3 and Article 8 of the Rules. In a quasi-legislative proceeding, *ex parte* communications are allowed consistent with Pub. Util. Code § 1701.4(c). Parties should be aware that, in communications regarding consumer protection issues, any discussion of other issues in the proceeding continues to be subject to the reporting requirements for ratesetting proceedings.

Interested persons are advised that the Office of Administrative Law has approved amendments to the Rules of Practice and Procedure, implementing statutory amendments pursuant to Senate Bill 215, 2016-2017 Reg. Sess. (Ca. 2017); the amended Rules will take effect on April 1, 2018.

8. Intervenor Compensation

Any party that expects to request intervenor compensation for its participation in this rulemaking must file its notice of intent to claim intervenor compensation in accordance with Rule 17.1 and Pub. Util. Code §§ 1801-1812.

9. Assigned Commissioner and Presiding Officer

Martha Guzman Aceves is the assigned Commissioner and Jessica T. Hecht, Valerie U. Kao and Mary F. McKenzie are the assigned ALJs. Pursuant to Rule 13.2 and

Pub. Util. Code § 1701.3, Jessica T. Hecht, Valerie U. Kao and Mary F. McKenzie are designated as the Presiding Officers.

10. Filing, Service and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJs. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set forth in Rules 1.5 and 1.6. Additionally, Rule 1.10 requires service on the ALJs of both an electronic and a paper copy of filed or served documents.

Documents tendered for filing in this proceeding must be served on the assigned Commissioner and ALJs by electronic copy only and not by paper copy.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission's Docket Office at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

11. Discovery

Discovery may be conducted by the parties consistent with Article 10 of the Commission's Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(e) does not apply to the service of discovery and discovery shall not be served on the ALJs. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

12. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

13. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences, it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr/>, for more information. If requested, the assigned ALJs will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov.

IT IS RULED that:

1. The amended scope of issues and schedule set forth above are hereby adopted for this proceeding, with the understanding that additional scheduling may be necessary to address any issues in this proceeding that are not currently scheduled.

2. Rulemaking 14-07-002 is categorized as Ratesetting, except for matters related to consumer protection, which are categorized as quasi-legislative.

3. Hearings are determined to be needed.

4. Commissioner Martha Guzman Aceves is the assigned Commissioner.

Administrative Law Judges Jessica T. Hecht, Valerie U. Kao and Mary F. McKenzie are the Presiding Officers for this proceeding.

5. *Ex parte* communications are subject to Public Utilities Code Section 1701.3(h) and Article 8 of the Commission's Rules of Practice and Procedure.

Dated March 29, 2018, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner